

Special Education Impact from *No Child Left Behind (NCLB)* and *Every Student Succeeds Act (ESSA)*

NCLB	ESSA	ESSA Regulations	Impact to Special Education	Endorsed by Bureau of Special Education
<p><b>SEC. 5465-Program Priorities(a)-</b> ...Secretary shall give highest priority to programs and projects designed to develop new information that— <b>(2)-</b> assists schools in the identification of, and provision of services to... individuals with disabilities who may not be identified and served through traditional assessment methods.</p>	<p><b>SEC. 1103(A)(b)-Priorities-</b> <b>(2)-</b> In making such awards, the [SEA] shall prioritize awards to [LEAs] serving the highest percentage of schools; <b>(A)-</b>identified by the State for comprehensive support and improvement; <b>(B)-</b>implementing targeted support and improvement plans;</p>	<p><b>§ 200.12 Single statewide accountability system.(b)</b> <b>(1)-</b> based on the challenging State academic standards <b>(4)-</b> ...to identify schools for comprehensive and targeted support and improvement</p>	<ul style="list-style-type: none"> <li>• LEAs and schools identified as needing a Target Support and Improvement plan is due to underperformance of subgroups which may single-out students with disabilities.</li> <li>• Funds may be directed to students with disabilities to increase performance.</li> </ul>	Yes
<p><b>SEC. 6111-Grants for State Assessments(a)(2)</b> <b>(G)-</b>...(pay the cost to) expand the range of accommodations available to... students with disabilities to improve the rates of inclusion...</p>	<p><b>SEC. 1201-Grants for State Assessments (a)</b> <b>(2)-</b> ...(to pay the cost of) developing state assessments and standards that)-ensure the provision of appropriate accommodations available to...children with disabilities to improve the rates of inclusion in regular assessments ...including professional development...to improve implementing such accommodations in instructional practice;</p>		<ul style="list-style-type: none"> <li>• More students with disabilities participating in the regular state assessments.</li> <li>• Better accommodations to meet needs of students with disabilities which may lead to higher performance on state assessments.</li> <li>• Teachers are more likely to use accommodations in the regular classroom more consistently.</li> </ul>	Yes
<p><b>SEC. 1111(a)(3)-Academic Assessments-</b> <b>(i)</b>...shall provide reasonable adaptations and accommodations for students with disabilities (as defined by [IDEA] necessary to measure the academic achievement ... relative to State academic content and ...achievement standards;</p>	<p><b>SEC. 1111(a)(2)-Academic Assessments-</b> <b>(B)-Requirements-</b>shall <b>(v)(II)-</b>provide for the appropriate accommodations, such as interoperability with, and ability to use, assistive technology, for children with disabilities; <b>(J)-Adaptive Assessments-</b> <b>(ii)-</b>the State retains the right to develop and administer computer adaptive assessments- <b>(I)(bb)-</b> (to) measure the student's</p>		<ul style="list-style-type: none"> <li>• More students with disabilities have increased access to the state assessment.</li> <li>• Decrease number of students taking alternative assessment..</li> <li>• Possible higher performance on assessments</li> <li>• Students with disabilities can be assessed at or above student's grade level.</li> </ul>	Yes

	level of academic proficiency and growth using items above or below the student's grade level... as part of a State's accountability system...			
<b>SEC. 1111(b)(1)(E)-(i)</b> -The State may... adopt alternate academic achievement standards for students with the most significant cognitive disabilities, provided those standards that— <b>(I)</b> -are aligned with the challenging State academic content standards <b>(II)</b> -promote access to the general education curriculum, <b>(III)</b> -reflect professional judgment as to the highest possible standards achievable by such students; <b>(IV)</b> - are designated in the IEP; <b>(V)</b> - are aligned to ensure that a student...is on track to pursue post-secondary education or employment.	<b>SEC. 1111(b)(1)(E)-(i)</b> -The state may adopt alternate academic achievement standards for students with most significant cognitive disabilities, provided those standards- <b>(I)</b> -are aligned with state academic content standards; <b>(II)</b> - promote access to the general curriculum; <b>(III)</b> - reflect professional judgement as to high standards achievable by such students; <b>(IV)</b> - are designated in the IEP; <b>(V)</b> - are aligned to ensure that a student...is on track to pursue post-secondary education or employment.	<b>§ 299.16 Challenging academic standards and academic assessments.(a)</b> <b>(2)</b> - ...alternate academic achievement standards for students with the most significant cognitive disabilities that meet the requirements of section 1111(b)(1)(E) of the Act;	<ul style="list-style-type: none"> <li>• No change</li> </ul>	Yes
	<b>SEC. 1111(b)(2)(B)(vii)(II)</b> ...alternative assessments...shall provide for...appropriate accommodations, such as...assistive technology using principles of [UDL];		<ul style="list-style-type: none"> <li>• Increased use of assistive technology in regular and special education classrooms.</li> <li>• Increased performance on alternative assessments.</li> <li>• Assessment can occur in both the regular and special education classroom.</li> </ul>	Yes
	<b>SEC 1111(b)(2)(D)(i)(I)</b> ...for each subject, the total number of student assessed using the alternate assessments does not exceed 1% of the total number of all students in the State who are assessed;		<ul style="list-style-type: none"> <li>• Decreased access to the alternative assessment if NH has exceeded this 1% cap</li> <li>• Question of data source and method of collecting data (1% school-wide, 1% district-wide, distribution of 1% state-wide which negatively impacts smaller schools.</li> </ul>	The Bureau of Special Education has reached out to Sandie MacDonald to address our questions.
	<b>SEC 1111(b)(2)(d)(ii)(II)-</b>		<ul style="list-style-type: none"> <li>• Will the 1% mentioned above</li> </ul>	The Bureau of

	<p>..nothing...shall be construed to permit the State...to impose on any [LEA] a cap on the percentage of students (taking the alternative assessment), except that the [LEA] exceeding the cap applied to the state</p> <p><b>(i)(1)</b> ...the [LEA] shall submit information to the state justifying the need to exceed the cap</p> <p><b>(IV)</b>...shall be subject to the waiver...</p>		<p>inadvertently put a cap on an LEA?</p> <ul style="list-style-type: none"> <li>• Question of what the criteria is for the waiver.</li> </ul>	<p>Special Education has reached out to Sandie MacDonald to address our questions.</p>
	<p><b>SEC. 1111(b)(2)-Alternative Diploma (D), SEC. 8101(a)(23)-Extended-Year Cohort Graduation Rate (B)(ii)(I)(bb), SEC. 8101(a)(25)(B)(ii)(I)(bb) 4-Year Cohort Graduation Rate-</b></p> <p>-all students with the most significant cognitive disabilities... (i) assessed using the alternate academic achievement standards and awarded a State-defined alternative diploma that is-</p> <p>(AA)-standards-based;</p> <p>(BB)- aligned with the State requirements for the regular high school diploma;</p> <p>(CC)- obtained within the time period for which the State ensures the availability of [FAPE];</p>	<p><b>§ 200.34 High school graduation rate(a)</b></p> <p><b>(1)</b>- The numerator must consist of the sum of—</p> <p><b>(ii)</b>- All students with the most significant cognitive disabilities in the cohort, assessed using an alternate assessment aligned to alternate academic achievement standards ... awarded a State-defined alternate diploma.</p>	<ul style="list-style-type: none"> <li>• Question of how number of credits would be configured in alternative diploma.</li> <li>• Question if it limits specialized instruction or alternative classes in order to be aligned with state requirements for a high school diploma.</li> <li>• Question of how will students post-secondary transition services be impacted.</li> <li>• Students that perceive alternative diploma as graduation from high school do not have access to needed adult services until 21 years old.</li> <li>• Concern of how alternative diploma will be viewed by colleges and employers</li> </ul>	<p>The Bureau of Special Education has informally reached-out to the field regarding alternative diploma. The feedback was that the field is not interested in exploring this at this time.</p>
	<p><b>SEC. 1111(b)(23)(A)(ii)(II)-Indicators, SEC. 8101 (a)(25)(A)(ii)(II)-</b></p> <p>(graduation rate will not include) any students awarded...a certificate of completion or attendance, or similar lesser credential;</p>	<p><b>§ 200.34 High school graduation rate.(c)</b></p> <p><b>(2)</b>- Regular high school diploma...shall not be aligned to the alternate academic achievement standards... and does not include a general equivalency diploma, certificate of completion, certificate of attendance, or any similar or lesser credential</p>	<ul style="list-style-type: none"> <li>• LEA indicator for graduation rate will not be affected by students staying in school beyond 4 years.</li> </ul>	<p>Yes</p>
<p><b>SEC. 1111(b)(2)(v)(II)-Subgroup of Students</b></p> <p><b>(cc)</b>-students with disabilities</p>	<p><b>SEC. 1111(c)(2)-Subgroup of Students-</b></p> <p><b>(C)</b>-students with disabilities</p>	<p><b>§ 200.16 Subgroups of students.</b></p> <p><b>(a)</b>- Children with disabilities.</p> <p><b>(b)</b>- with respect to a student</p>	<ul style="list-style-type: none"> <li>• No change.</li> </ul>	<p>Yes</p>

		previously identified as a child with a disability who has exited special education services as determined by the student's individualized education program (IEP) team, a State may include such a student's performance within the children with disabilities subgroup for not more than two years after the student ceases to be identified as a child with a disability for purposes of calculating any indicator		
<b>SEC. 1111(b)(2)-Accountability (F)-</b> Timeline (each state) shall... ensure that not later than 12 years after the end of the 2001–2002 school year, all students in each group will meet or exceed the State's proficient level of academic achievement on the State assessments;	<b>SEC. 1111(c)(4)-Accountability (A)-</b> (each state) shall establish ambitious State-designed long term goals and measurements of interim progress- <b>(i)-</b> for all students and separately for each subgroup... <b>(I)-</b> ...improved... <b>(aa)-</b> academic achievement as measured by proficiency on annual assessments.	<b>§ 200.13 Long-term goals and measurements of interim progress.</b> <b>(a)-</b> For...improved academic achievement, as measured by grade-level proficiency on the annual assessments ... (for) all students and separately for each subgroup of students...	<ul style="list-style-type: none"> <li>• Under ESSA, goals are set at a more reasonable and reachable target for students with disabilities.</li> <li>• ESSA is more flexible and does not determine a specific percentage increase of a subgroup that meets or exceeds proficiency levels in order to meet adequate yearly progress.</li> <li>• Under ESSA, the achievement gap for students with disabilities and interim targets can be adjusted in order for students with disabilities to achieve allowing more time for increased interventions to take effect.</li> </ul>	Yes
<b>SEC. 1111(b)(2)-(iii)-</b> include sanctions and rewards... to hold [LEAs] and schools accountable...	<b>SEC. 1111(c)(4)(D)-Identification of Schools (i)-Comprehensive Support and Improvement Schools</b> include- <b>(I)-</b> ...lowest performing 5 percent of all schools receiving funds...; <b>(II)-</b> all public high schools in the State failing to graduate one third or more of their students; <b>(III)-</b> Targeted Support & Improvement Schools which, if not satisfied within a State-determined number of years...	<b>§200.19-Identification of Schools-</b> <b>(a)-</b> Schools identified for comprehensive support and improvement. <b>(3)-</b> Chronically low-performing subgroup.		Yes, based on what the sanctions and supports are.

<p><b>SEC. 1111(b)(2)-(iii)-</b> include sanctions and rewards... to hold [LEAs] and schools accountable...</p>	<p><b>SEC. 1111(d)(2)-Targeted Support &amp; Improvement</b>  <b>(A)(i)-</b>notify each [LEA] in the State of any school served by the [LEA] in which any subgroup of students is consistently underperforming,  <b>(B)-</b> Each school receiving a notification...shall develop and implement a school-level targeted support and improvement plan to improve student outcomes based on the indicators in the statewide accountability system...  <b>(ii)</b> includes evidence-based interventions;</p>	<p><b>§ 200.22 Targeted support and improvement.(a)</b>  <b>(1)-</b> notify ... each LEA serving such school of the identification  <b>(2)-</b> Ensure such LEA provides notification to each school ... including the reason for identification (i.e., the subgroup or subgroups under § 200.16(a)(2)  <b>(c)-</b> each school must develop and implement a school-level targeted support and improvement plan to address (how to) improve student outcomes for the lowest-performing students in the school  <b>(3)(i)-</b> including student academic achievement on assessments required  <b>(4)-</b> (that) includes one or more interventions;  <b>(i)-</b> (that) are supported, to the extent practicable, by evidence from a sample population or setting that overlaps with the population or setting of the school to be served;</p>	<ul style="list-style-type: none"> <li>• Access to Title I funds for multiple purposes that support increased performance on state assessments and in classroom assessments.</li> <li>• Access to evidence-based interventions by trained personnel within the regular education classroom.</li> <li>• Increased level of training on evidenced-based instruction for Title I teachers.</li> <li>• Encourage Title I reading teachers to be trained in specialized reading programs, i.e.-Wilson Reading Program, Orton-Gillingham Reading Program and specialized math programs.</li> </ul>	<p>Yes</p>
<p><b>SEC. 1114-School-wide Programs (b)(1) include components(B)-</b>  <b>(i)-</b> provide opportunities for all children to meet the State's proficient and advanced levels of student academic achievement;  <b>(ii)(III)-</b> include strategies for meeting the educational needs of historically underserved populations;  <b>(iii)(I)-</b> include strategies to address the needs of all children in the school, but particularly the needs of low-achieving children and those at risk of not meeting the State student academic achievement standards who are members of the target</p>	<p><b>SEC. 1114-School-wide Programs(b) (with) Components that...(7)(B) Reform Strategies that-</b>  <b>(iii)-</b>address the needs children...at risk of not meeting...state academic standards which may include-  <b>(II)-</b> preparation for and awareness of opportunities for postsecondary education and the workforce  <b>(III)-</b>...implementation of problem behavior and early intervening services coordinated with...activities and services carried-out under [IDEA].</p>	<p><b>§ 200.22 Targeted support and improvement plan.(c)</b>  <b>(4)-</b> Includes one or more interventions to address the reason or reasons for identification and improve student outcomes for the lowest-performing students in the school-  <b>(ii)-</b> Are supported, to the extent practicable, by evidence from a sample population or setting that overlaps with the population or setting of the school...  <b>(iii)-</b> Are supported, to the extent practicable, by the strongest level of evidence that is available and appropriate to improve student outcomes for the lowest performing</p>	<ul style="list-style-type: none"> <li>• Increased access to services and personalized instruction.</li> </ul>	<p>Yes</p>

12/22/2016

population...;		students in the school (iv)- May be selected from a non-exhaustive list of evidence-based interventions ... established by the State,		
<b>SEC. 1237-LEA Use of State Grant Funds-Applications(c)-</b> <b>(E)-</b> (to include) a statement of methods that will be used- <b>(ii)-</b> to provide services...to individuals with disabilities.	<b>SEC. 1112- LEA Plans for Use of State Grant Funds (c)-Assurances-</b> <b>(4)-</b> coordinate and integrate services (for)... children with disabilities... <b>(7)(A)(iii)(III)-</b> implementation of a school-wide tiered model to prevent and address problem behavior, and early intervening services, coordinated with similar activities and services carried out under [IDEA];	<b>§ 200.24 Resources to support continued improvement.(b)</b> <b>(1)-</b> ... one or more evidence-based interventions that are based on strong, moderate, or promising evidence as defined under section 8101(21)(A) of the Act and that will be implemented in each school the LEA proposes to serve.	<ul style="list-style-type: none"> <li>• Increased services to students with disabilities by having access to all services that nondisabled students have, in addition to special education services.</li> <li>• Increased inclusion</li> <li>• Increased small group/individual intervention</li> <li>• May lead to reduced number of students identified as having an emotional disability.</li> </ul>	Yes
<b>Part D-...Technology(b)-Goals(2)</b> <b>(A)-</b> ...every student is technologically literate by the time the student finishes the eighth grade, regardless of the student's race, ethnicity, gender, family income, geographic location, or disability;	<b>SEC 4101-State Use of Funds-(b)(3)</b> <b>(C)-</b> to increase personalized, rigorous learning experiences supported by technology by- <b>(i)-</b> providing technical assistance to- <b>(II)-</b> use technology consistent with the principals of [UDL] to support learning needs;	<b>§ 299.19 Supporting all students. (a) Well-rounded and supportive education for students (1)</b> <b>(ii)-</b> Equitable access to a well-rounded education and rigorous coursework in subjects such as English, reading/language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, history, geography, computer science, music, career and technical education, health, physical education, and any other subjects in which ...children with disabilities are underrepresented; <b>(iv)-</b> The effective use of technology to improve the academic achievement and digital literacy of all students;	<ul style="list-style-type: none"> <li>• Students with disabilities have increased access to academic supports through personalization.</li> <li>• Greater use of assistive technology in the regular classroom.</li> <li>• Increased options for nondisabled peers to access technology equally as nondisabled peers.</li> </ul>	Yes
	<b>SEC. 4108-Activities to Support Safe &amp; Healthy Schools(a)(5)</b> <b>(G)-</b> ...(LEAs can use funds for the)... implementation of school-wide positive behavioral interventions and supports, including through	<b>§ 299.19 Supporting all students.(a)(2)</b> <b>(i)-</b> Support LEAs to improve school conditions for student learning, including activities that create safe, healthy, and affirming school	<ul style="list-style-type: none"> <li>• Positive behavioral interventions become part of the regular school environment supported by all teachers and burden does not fall solely on special education</li> </ul>	Yes

	coordination with similar activities carried out under [IDEA];	environments inclusive of all students to reduce— <b>(A)</b> - Incidents of bullying and harassment; <b>(B)</b> - The overuse of discipline practices that remove students from the classroom, such as out-of-school suspensions and expulsions; and <b>(C)</b> - The use of aversive behavioral interventions that compromise student health and safety;	teachers and related services personnel.	
<b>SEC. 9101(a)(23)—Highly Qualified (Teacher)-(B)(i)(ii)</b> (has) <b>I</b> ...at least a bachelor’s degree <b>II</b> -passed rigorous state tests or successful completion of the academic subjects in which the teacher teaches of an academic major, graduate, or coursework equivalent to an undergraduate major...	<b>SEC. 1111(b)(2)-Assurances (J)</b> - ... the [SEA] will ensure that all teachers and paraprofessionals working in a program...meet applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes...;	<b>§ 200.37 Educator qualifications. (b)(3)</b> - Each State must adopt, and the State and each LEA in the State must use, a statewide definition of the term “inexperienced” and of the phrase “not teaching in the subject or field for which the teacher is certified or licensed.”	<ul style="list-style-type: none"> <li>Although this would impact all teachers in this situation, the Bureau of Special Education is concerned how this will impact the high number of special education teachers seeking certification through the Alternative IV process (working with Bureau of Credentialing).</li> <li>Concern of how this will impact special classes related to life skills taught by a special education teacher that is considered highly qualified in multiple subjects and able to teach a variety of classes. This will decrease access to special classes deemed appropriate students with disabilities as per IEP.</li> <li>Supports inclusion of students with more significant disabilities.</li> </ul>	The Bureau of Special Education has reached out to Ginny Clifford to determine if the alternative pathways to certification is considered provisional.
<b>SEC. 2112(b)(9)-Provide Training to Teachers to-(A)</b> -teach and address the needs of students with...disabilities... <b>SEC. 9101(a)(34)-Professional Development(A)(xiv)</b> -...provide instruction in methods of teaching children with special needs;	<b>SEC. 8101(a)(42)(B)(xii), SEC. 1111 (b)(42)(B)-Professional Development, (xii)</b> - are designed to give teachers...and instructional staff of children with disabilities...or developmental delays knowledge and academic skills to provide instructions and academic support services...	<b>§ 299.18 Supporting excellent educators.(b)</b> <b>(2)</b> - In its consolidated State plan, each SEA must describe how the SEA will improve the skills of teachers, principals, or other school leaders in identifying students with specific learning needs and providing	<ul style="list-style-type: none"> <li>Increased access to highly trained personnel.</li> <li>More quality services and increased variety of instruction</li> </ul>	Yes

12/22/2016

<b>SEC. 2122-Application(c)(9)- Training to Enable Teachers to-</b> <b>(A)-</b> teach and address the needs of students with different learning styles, particularly students with disabilities...; <b>(B)-</b> improve student behavior in the classroom and identify early and appropriate interventions to help students...learn;	including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;	instruction based on the needs of such students		
<b>SEC. 5203-Applications (of charter schools)(b)(3)</b> <b>(L)-</b> ...(will include) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of [IDEA];	<b>SEC. 4301-Expanding Opportunity Through Quality Charter Schools-</b> <b>(a)(6)-</b> expand opportunities for children with disabilities... <b>(b)(2)(C)-</b> the state will ensure that...any charter school that receives funds (from the state)...(will) adequately monitor each charter school...in recruiting, enrolling, retaining, and meeting the needs of all students, including children with disabilities;		<ul style="list-style-type: none"><li>Currently the LEA where is child lives is responsible for providing special education and related services.</li></ul>	Yes